

shall be documented and placed in the applicant's file.

(2) *Notification to applicants.* (i) If an IHA determines that an applicant is ineligible for admission to a project, the IHA shall promptly notify the applicant of the basis for such determination and shall provide the applicant, upon request and within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination; and

(ii) When a determination has been made that an applicant is eligible and satisfies all requirements for admission including the tenant selection criteria, the applicant shall be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

(g) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided a housing unit with two or more bedrooms.

[60 FR 18186, Apr. 10, 1995, as amended at 61 FR 5666, Feb. 13, 1996; 61 FR 11119, Mar. 18, 1996]

§ 950.303 Selection preferences.

(a) *Types of preference.* There are three types of admission preferences.

(1) "Federal preferences" are preferences that are prescribed by Federal law and required to be used in the selection process. See § 950.304(a).

(2) "Ranking preferences" are preferences that may be established by the IHA to use in selecting among applicants that qualify for Federal preferences. See § 950.304(b).

(3) "Local preferences" are preferences that may be established by the IHA for use in selecting among applicants without regard to their Federal preference status.

(b) *Use of preference in selection process.* (1) *Factors other than preference.* (i) *Characteristics of the unit.* The IHA may match other characteristics of the applicant family with the type of unit available, e.g., number of bedrooms. In selection of a family for a unit that has special accessibility features, the IHA shall give preference to families that include persons with disabilities who can benefit from those features of the

unit (see 24 CFR 8.27). Also, in selection of a family for a unit in a project for elderly families, the owner will give preference to elderly families and disabled families.

(ii) *Singles preferences.* See § 950.301(d).

(2) *Local preference admissions.* (i) If the IHA wants to use preferences to select among applicants without regard to their Federal preference status, it may adopt a preference system for this purpose. These local preferences may only be adopted after the IHA has conducted a public hearing to establish preferences that respond to local housing needs and priorities. The IHA may only use local preferences in selection for admission if the IHA has conducted the required public hearing.

(ii) "Local preference limit" means 30 percent of total annual admissions to the program. In any year, the number of families given preference in admission pursuant to a local preference over families with a Federal preference may not exceed the local preference limit.

(3) *Prohibition of preference if applicant was evicted for drug-related criminal activity.* The IHA may not give a preference to an applicant (Federal preference, local preference, or ranking preference) if any member of the family is a person who was evicted during the past three years because of drug-related criminal activity from housing assisted under a 1937 Housing Act program. However, the IHA may give an admission preference in any of the following cases:

(i) If the IHA determines that the evicted person has successfully completed a rehabilitation program approved by the IHA;

(ii) If the IHA determines that the evicted person clearly did not participate in or know about the drug-related criminal activity; or

(iii) If the IHA determines that the evicted person no longer participates in any drug-related criminal activity.

(c) *Informing applicants about admission preferences.* (1) The IHA shall inform all applicants about available preferences and shall give applicants an opportunity to show that they qualify for available preferences (Federal preference, ranking preference, or local preference).

(2) If the IHA determines that the notification to all applicants on a waiting list required by paragraph (d)(1) of this section is impracticable because of the length of the list, the IHA may provide this notification to fewer than all applicants on the list at any given time. However, the IHA shall have notified a sufficient number of applicants at any given time that, on the basis of the IHA's determination of the number of applicants on the waiting list who already claim a Federal preference and the anticipated number of project admissions:

(i) There is an adequate pool of applicants who are likely to qualify for a Federal preference; and

(ii) It is unlikely that, on the basis of the IHA's framework for applying the preferences and the Federal preferences claimed by those already on the waiting list, any applicant who has not been so notified would receive assistance before those who have received notification.

(d) *Nondiscrimination.* (1) Any selection preference used by an IHA shall be established and administered in a manner that is consistent with HUD's affirmative fair housing objectives.

(2) The Indian Civil Rights Act may apply to operations of the IHA.

(3) In addition, the following nondiscrimination requirements may apply:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1;

(ii) The Fair Housing Act (42 U.S.C. 3601-19) and the implementing regulations at 24 CFR parts 100, 108, 109, and 110;

(iii) Executive Order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 CFR part 107;

(iv) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8;

(v) The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and the implementing regulations at 24 CFR part 146; and

(vi) The Americans with Disabilities Act (42 U.S.C. 12101-12213) to the extent applicable.

(e) *Notice and opportunity for a meeting if preference is denied.* (1) If the IHA de-

termines that an applicant does not qualify for a Federal preference, ranking preference, or local preference claimed by the applicant, the IHA shall promptly give the applicant written notice of the determination. The notice shall contain a brief statement of the reasons for the determination, and state that the applicant has the right to meet with a representative of the IHA to review the determination. The meeting may be conducted by any person or persons designated by the IHA, who may be an officer or employee of the IHA, including the person who made or reviewed the determination or a subordinate employee.

(2) The applicant may exercise other rights if the applicant believes that the applicant has been discriminated against in violation of requirements stated in paragraph (d) of this section.

[60 FR 18186, Apr. 10, 1995, as amended at 61 FR 5666, Feb. 13, 1996]

§ 950.304 Federal preferences: general.

(a) *Definition.* A Federal preference is a preference under Federal law for selection of families that are:

(1) Involuntarily displaced;

(2) Living in substandard housing (including families that are homeless or living in a shelter for the homeless); or

(3) Paying more than 50 percent of family income for rent.

(b) *Ranking preferences: selection among Federal preference holders.* The IHA's admission policy may provide for the use of a ranking preference for selecting among applicants who qualify for a Federal preference.

(1) The IHA could give preference to working families. (If an IHA adopts such a preference, an applicant household shall be given the benefit of the preference if the head and spouse, or sole member is age 62 or older or is receiving social security disability, supplemental security income disability benefits, or any other payments based on an individual's inability to work.) An IHA also could give preference to graduates of, as well as active participants in, educational and training programs that are designed to prepare individuals for the job market. An IHA also could use its local preferences for the Section 8 Certificate and Voucher